

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CRAIG CUNNINGHAM on behalf of himself and all
others similarly situated,

2:19 CV 638 (ILG) (PK)

Plaintiff,

-vs.-

BIG THINK CAPITAL INC.,

**DECLARATION OF AYTAN Y.
BELLN IN RESPONSE TO
THE COURT'S ORDER TO
SHOW CAUSE**

Defendant.

I, AYTAN Y. BELLIN, declare:

1. I am the Managing Attorney of Bellin & Associates LLC, attorneys for the Plaintiff, Craig Cunningham (“Plaintiff”), and the proposed class, in the above-entitled action, and am admitted to practice before this Court.
2. Plaintiff filed the Complaint in this action on February 1, 2019. Doc. No 1.
3. On February 4, 2019, the Complaint was served on Defendant Big Think Capital, Inc. (“Defendant”). Doc. No. 4.
4. Having received no response to the Complaint, I contacted David Brown, Defendant’s President, on or about March 6, 2019.
5. Mr. Brown informed me that Defendant had not yet retained counsel to defend this action, and requested until April 5, 2019 to retain counsel and to file a response to the Complaint.
6. I consented to Mr. Brown’s request on behalf of Plaintiff.
7. On March 28, 2019, this Court filed an Order to Show Cause ordering Plaintiff to show cause by April 11, 2019 why Plaintiff has not requested a certificate of default in this action.

8. Subsequently, I called Mr. Brown to find out whether Defendant had retained counsel and whether Defendant still intended to respond to the Complaint.

9. On April 11, 2019, Mr. Brown informed me that Defendant had been moving and that it had not yet retained counsel. Mr. Brown assured me that Defendant would retain counsel and file a response to the Complaint by April 19, 2019.

10. Plaintiff has not requested a certificate of default in this action because Plaintiff is aware that the federal courts have a strong preference to resolving disputes on the merits, rather than entering default judgments, and because Mr. Brown has assured me that Defendant will be filing a response to the Complaint by April 19, 2018.

11. Should Defendant not file a response to the Complaint by April 19, 2019, Plaintiff will inform the Court and will take further steps to protect his rights.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 11th day of April, 2019.

Respectfully submitted,

s/Aytan Y. Bellin
Aytan Y. Bellin
BELLIN & ASSOCIATES LLC
50 Main Street, Suite 1000
White Plains, NY 10606
Phone: (914) 358-5345
Fax: (212) 571-0284
aytan.bellin@bellinlaw.com

Attorneys for the Plaintiff and the Proposed Class

CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2019, I served a copy of the foregoing on the Defendant Big Think Capital, Inc., via Federal Express for delivery overnight to the following address:

David Brown, President
Big Think Capital, Inc.
225 Broadhollow Road, Suite 211
Melville, NY 11747

/s/ Aytan Y. Bellin
Aytan Y. Bellin